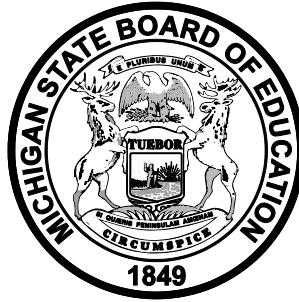


# Operator Primer

Special Education in  
Public School Academies (PSA)

September 2013





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**Michigan Department of Education  
Office of Special Education**

608 West Allegan  
P.O. Box 30008  
Lansing, MI 48909

(517) 373-0923

[www.michigan.gov/ose-eis](http://www.michigan.gov/ose-eis)

## Table of Contents

<b>I. Introduction .....</b>	<b>Error! Bookmark not defined.</b>
<b>II. Pre-Authorization Stage .....</b>	<b>6</b>
<b>III. Preparing for Start-Up .....</b>	<b>12</b>
<b>IV. Operating a Public School Academy .....</b>	<b>16</b>
<b>V. Accountability, Data Collection, and Renewal.....</b>	<b>22</b>
<b>VI. Non-Renewal, Revocation, and Termination .....</b>	<b>25</b>

## I. Introduction

The content of this document is intended to enhance the working knowledge of new or existing Public School Academy Boards of Directors, leadership teams, and teaching staff about the responsibilities associated with respect to federal and state special education laws, regulations, and rules. In order for the reader to fully understand the content within this document, it is necessary to first identify and define critically important offices, agencies, and terms:

### A. State Board of Education (SBE) Roles and Responsibilities Relative to Public School Academies (PSAs)

The Michigan SBE has leadership and general supervision over all public education, including PSAs, based on the Revised School Code Act MCL 380.501.

Sec. 501. (1) A public school academy is a public school under section 2 of article VIII of the state constitution of 1963, is a school district for the purposes of section 11 of article IX of the state constitution of 1963 and for the purposes of section 1225 and section 1351a, and is subject to the leadership and general supervision of the state board over all public education under section 3 of article VIII of the state constitution of 1963. A public school academy is a body corporate and is a governmental agency. The powers granted to a public school academy under this part constitute the performance of essential public purposes and governmental functions of this state.

### B. Michigan Department of Education (MDE)

The Department of Education, under the direction of the State Superintendent, carries out the policies of the State Board of Education. The Department implements federal and state legislative mandates in education.

### C. Office of Education Improvement and Innovation (OEII)

The OEII provides leadership for the development of a statewide system of support for high priority schools, the implementation of a comprehensive school improvement planning process, and the dissemination of innovative educational methods and practices. The legal basis for the federal programs consists of the following parts of the *Elementary and Secondary Education Act of 2001*, Public Law 107-110: Title I, Parts A, B Subpart 1, and C; Title II, Parts A, B, and D; Title III, Part A; and Title X, Part C. The Public School Academies unit of OEII serves to provide quality support to public school academies and their stakeholders through timely and accurate oversight and monitoring.

### D. Office of Special Education (OSE)

The function of the OSE is the general supervision, regulation, administration of due process, and funding of special education programs and services for children and youth with disabilities ages 3-21. A free appropriate public education (FAPE) is provided to eligible children according to federal law and regulations, state

statute, and administrative rules. In addition, it is important to understand that in Michigan special education services are available from birth to age 26.

#### E. The Intermediate School District (ISD)

An ISD (also known as an ESA, ESD, RESA, and RESD) is a corporate body established under Part 7 of The Revised School Code, Act 451 of 1976. An ISD in Michigan provides regional special education, career/technical education, and general education services to local constituent public school districts and PSAs. Each ISD submits an ISD Plan for special education to the Michigan Department of Education, Office of Special Education (MDE-OSE). The ISD Plan must be approved by the State Superintendent. The ISD Plan is the operational plan that sets forth the special education programs and related services to be delivered. Each PSA should contact its ISD to ensure that it is included in the ISD Plan and any changes made to an existing Plan. Specific information regarding the ISD Plan can be found in the *Michigan Administrative Rules for Special Education* (MARSE) at R 340.1831 through R 340.1837. The MARSE can be accessed through the Michigan Special Education Reference (MI-SER) ([www.michigan.gov/ose-eis](http://www.michigan.gov/ose-eis)). Specific plans for each ISD may be found at the individual ISD websites.

## II. Pre-Authorization Stage

In the state of Michigan, a charter school is referred to as a public school academy (PSA). A PSA is considered a public school district under Michigan law. A PSA is a local educational agency (LEA) and has the same responsibilities regarding special education as any other LEA in the state.

Michigan's public school academy law, Public Act (PA) 362 of 1993, delegates to the governing board of a state public university, community college, ISD, and local school district the responsibility for authorizing and overseeing a PSA. Section 380.502(4) of the Michigan Compiled Law (MCL) requires authorizing bodies to oversee the schools they charter and ensure their compliance with state statute, rules, and the terms of their authorizing contract. As a public school, a PSA is subject to the leadership of the State Board of Education (SBE). The authorizing agent mainly serves the following roles:

1. PSA application, PSA authorization (i.e., charter contract), and contract amendments.
2. Oversight, accountability, and reauthorization.
3. Non-Renewal, revocation, and reconstitution.

### **As a PSA school planning group, what is our role related to special education as we design our school?**

The pre-authorization planning—the time before you submit your application for a charter—is the ideal time to begin planning for all students who may enroll in your PSA, including students with disabilities. As the PSA operator, you are assuming the role of administrator and operator as well as the instructional leader for your future faculty, parents, and all students. Although you obviously cannot plan for each student before he or she enrolls, it is essential that you give consideration to students with disabilities as you are developing the initial plans for your school. The vision you have for your school will be seen, heard, and implemented by others involved in the planning. Therefore, as you plan for your school, it is critically important you consciously plan for including students with disabilities in every aspect of your PSA. Doing this now will not only avoid future problems but will also result in more effective educational opportunities for all of your students. Your ISD special education contact can be an excellent resource to assist you in clarifying your role and responsibilities in providing special education programs and services. Also, the Michigan Special Education Reference (MI-SER) is an online database for special education program directors, school administrators, teachers and other service providers, parents, and parent support groups who need information regarding special education quickly and in a searchable format. MI-SER provides access to state and federal special education law and policy information and resources. MI-SER can be found at [www.michigan.gov/ose-eis](http://www.michigan.gov/ose-eis).

## **Why is it important to include students with disabilities as part of the discussion when we are developing the mission and vision of our school?**

As a public school, you must accept all students who apply under the terms of your charter. You should expect that you will enroll students with many different kinds of needs including students with disabilities. It is critically important to consider the needs of all students when you are developing the mission and vision of your PSA. When this possibility is carefully considered in the initial planning process, it is much more likely your mission and vision statements will be crafted so that you can accommodate a diverse array of students thus minimizing the likelihood of subsequent problems.

## **How can we plan for students with different disabilities?**

During your initial planning, it is important to give some thought to how your school's purpose and mission can be relevant to a wide range of students. For example, how can it be made relevant to students with learning disabilities, physical disabilities, or students who present behavioral challenges?

The following legal principles contained in the *Individuals with Disabilities Education Act* (IDEA) should be considered in your planning to include students with disabilities:

- *Equal Educational Opportunity*—Federal law requires that all students are to be afforded an equal educational opportunity, and states may not deny an education on the basis of a disability.
- *Individualized Education Program (IEP)*—A written statement (IEP) must be developed in accordance with the IDEA law and regulations for all students identified as having a disability and in need of special education services.
- *Free Appropriate Public Education (FAPE)*—Appropriate special education and related services must be provided at no cost to the parent.
- *Least Restrictive Environment (LRE)*—Students with disabilities must be educated in general education environment with their non-disabled peers, in the school they would attend if they did not have a disability, to the maximum extent appropriate.
- *Due Process*—The IDEA contains procedures for resolving disputes between families and the school that include the state complaint system, resolution meetings, mediation, due process hearings, and appeals to state or federal court.
- *Nondiscriminatory Evaluation*—Tests and evaluation materials that are provided and administered in the student's native language or other mode of communication; validated for the specific purpose for which they are used; administered by trained personnel; tailored to assess specific areas of educational need and not merely those designed to provide a single general intelligence quotient; and, reflective of the student's aptitude or achievement and not reflective of the student's impaired sensory, manual, or speaking skills.

Taking time to consider these principles and how they relate to a PSA in Michigan will help you to develop a school that addresses the needs of all your students.

## **Do we have any responsibility regarding the recruitment of students in order to be in compliance with federal civil rights laws?**

Yes. When announcing your PSA or conducting outreach, you may not discriminate against students with disabilities. You should recruit students from all segments of the community served by your school using strategies that will not exclude students with disabilities. More details are available from the U.S. Department of Education Office for Civil Rights ([www.hhs.gov/ocr](http://www.hhs.gov/ocr)).

When providing outreach information to parents, you must make sure that a parent, who might also have a disability and/or who does not understand English, has a meaningful opportunity to understand the outreach information given about your PSA as effectively as other parents. Appropriate accommodations, such as provision of qualified interpreters or translations, must be made available whenever they are necessary to ensure effective communication with parents with disabilities.

## **What is our obligation to make sure that student applicants with disabilities are treated in a nondiscriminatory manner in admissions?**

Under federal law, you may not categorically deny admission to students on the basis of disability. For example, you may not deny admission to a student with a disability solely because of that student's need for special education or related services. Students with disabilities must have the opportunity to meet any appropriate minimum eligibility criteria for admission, consistent with the mission of the PSA and civil rights requirements.

## **What issues need to be considered as we plan to provide effective special education services?**

While the issues will vary from school to school, several are common to all schools, including effective instruction, curriculum, service provision, funding, space and accessible facilities, human resources, professional development, administration, transportation, and special considerations. (The checklist at the end of this section poses questions designed to help you consider these important areas.)

## **Does a PSA in Michigan have an obligation beyond their assurance statement to educate students with disabilities?**

Yes. Your planning activities and application will be stronger if you address areas about the education of students with disabilities that are connected to your legal responsibility for special education in accordance with federal and state law.

## **What should we consider in preparing our application?**

A few critical areas for you to consider include:

- Describing how you are aware of the responsibilities entailed in the general assurance.
- Articulating your plan regarding governance, service delivery, and finance of special education.
- Explaining how you will plan to:

- Identify, locate, evaluate, and serve students with disabilities.
- Develop, review, and revise an IEP.
- Integrate special education into the general education program.
- Deliver special education and related services.
- Project the cost of special education in your school including costs for:
  - Child Find, student identification, evaluation, and planning.
  - Providing special education services.

Specific PSA application requirements vary from authorizer to authorizer in the state of Michigan.

## **Summary and Key Points**

The pre-authorization stage provides you with a valuable opportunity to explore different aspects of your future PSA. While Michigan requires you to provide only a general assurance that you won't discriminate or just an assurance to abide by the IDEA, you and your colleagues may not be aware at first of what these assurances entail. In an effort to preempt potential problems associated with not complying with special education requirements, you should use the pre-authorization phase to, among other things, educate yourself and other critical players (e.g., Board members) about special education. By educating yourself earlier rather than later, you will be able to include special education and students with disabilities into your school's vision rather than leaving it to become an add-on component. Once your PSA is authorized and operating, the pressures associated with start-up and day-to-day operations may limit your ability to address critical issues. So use the time you have available to design your school, making sure you include special education at every decision point.

## **Checklist of Special Education Considerations for PSA Board of Directors**

### ***Funding for Special Education***

- ☐ Is there a formula for determining how much special education funding to include in our budget?
- ☐ If yes, what is the formula and how is it determined?
- ☐ What funds will we receive for special education services?
  - ☐ federal
  - ☐ state
  - ☐ local
  - ☐ grants
  - ☐ fundraising

### ***Space and Facilities***

- ☐ Where will we conduct student evaluations?
- ☐ Where will we conduct IEP team meetings?
- ☐ Where can we store confidential student records?
- ☐ Where will we provide services?
- ☐ Where can related services personnel meet with individual students?
- ☐ Where will we store supplies and equipment used by students with disabilities (e.g., educational, medical, mobility, assistive technology)?
- ☐ Are entrances, classrooms, common areas, and bathrooms accessible to individuals, including adults, with physical disabilities?
- ☐ Who will make repairs to ensure the school remains accessible to students with disabilities?

### ***Human Resources***

- ☐ How many students will the school enroll?
- ☐ How many teachers will I need to hire?
- ☐ How many special education teachers will I need to hire?
- ☐ What kind of certification will the teachers need?
- ☐ Can we hire dual-certified teachers?
- ☐ Can we hire part-time or retired special education teachers?
- ☐ Can we use student teachers from area universities?
- ☐ What type of related services personnel will we need?
- ☐ Can the ISD assist with staffing needs?
- ☐ How will we obtain these services and contract with these individuals?
- ☐ What other types of services will our school need?
  - ☐ Legal counsel with special education expertise?
  - ☐ Accountants/bookkeepers?

### ***Curriculum***

- ☐ What curriculum will my school offer?
- ☐ How does our curriculum align with the Common Core State Standards (CCSS) and Common Core Essential Elements?

- ☐ How will we modify the curriculum to address the unique needs of students with disabilities?
- ☐ How can we train general and special education teachers to modify and adapt the curriculum for students with disabilities in inclusive classrooms?
- ☐ What types of assistive technology will be needed by our students?

### ***Service Provision***

- ☐ How will we provide special education related services (e.g., occupational and physical therapy, orientation and mobility, speech therapy)?
- ☐ What should our Child Find activities look like?
- ☐ How will we conduct student identification, evaluation, and special education determination meetings?
- ☐ Who will participate in IEP development and implementation?
- ☐ What types of special education staff or consultants will we need?
- ☐ How will we handle reevaluations?
- ☐ How are we going to work with families?
- ☐ How can we build partnerships?
- ☐ What strategies can we use to be proactive in avoiding conflicts?

### ***Professional Development***

- ☐ How will we provide teachers with professional development?
- ☐ What type of specialized professional development will be needed by school staff (including teachers, paraprofessionals, administrators) to support students with disabilities?
- ☐ Does the ISD or MDE operate a professional development program or network that I can utilize?

### ***Administration***

- ☐ Who will administer the special education program?
- ☐ Who will be responsible for collecting, managing, and reporting data related to students with disabilities?
- ☐ What equipment, supplies, and programs will be needed to collect and store data and records? How will we obtain these? What training will be needed to use these efficiently and appropriately?
- ☐ Can we create our own system to administer special education or do we need to adopt the policies/procedures dictated by our authorizer, local district, or ISD?

### ***Transportation***

- ☐ Do we provide all students with transportation?
- ☐ Can we access district or state transportation dollars to offset costs?
- ☐ How will we meet transportation needs of students who receive specialized transportation as a related service that is required by their IEP?
- ☐ How will we arrange transportation for a student who uses a wheelchair?
- ☐ How will we provide equal access to field trips or other school activities for students who use wheelchairs?

### III. Preparing for Start-Up

#### **We have concerns about our ability to deliver instruction to students with disabilities that aligns with our curriculum. What should we do?**

First, it is important that all PSA Board of Director members understand that each student who is identified as a student with a disability has an individual entitlement to a FAPE under the IDEA. For students who require specific support, you need to adjust your program to meet their needs. Some strategies may include:

- Provide professional development regarding differentiating instruction.
- Re-allocate staff to ensure appropriate support for students.
- Incorporate into a student's IEP a provision for close tracking of the student's adjustment to the first 30 days at the PSA with a set date for the full IEP team to review progress and make any necessary revisions.
- Provide an array of accommodations and modifications to allow students to access the general education curriculum (e.g., positive behavioral interventions and support (PBIS), assistive technology).
- Collaborate with another PSA, LEA, or the ISD to provide a continuum of services.
- Contact your local ISD for additional support and ideas for special education programs and services in your school.

#### **If we have concerns about our ability to meet the needs of a specific student with a disability who is considering enrollment, can we recommend other programs or schools?**

No. During the course of student recruitment, it is expected that your school staff and representatives will share information with prospective students and families regarding the school's curriculum and services. It would also be appropriate to discuss the services and supports currently provided to students with disabilities. All issues about the appropriateness of the student's placement should be taken up with the student's IEP team and not with school staff upon enrollment.

#### **What should we do when a student with a disability applies to our school?**

Since a PSA may not discriminate on the basis of a disability in determining eligibility for admission, your considerations for students with disabilities are to be the same as for students without disabilities. It is critical that your PSA receives the records for a student who applies for admission from the student's previous school to ensure that the IEP requirements are implemented. You may not deny a student entrance or fail to initiate special education programs and services while awaiting records if a parent provides a current IEP or if you can confirm eligibility from the previous district. For students with an IEP in effect who transfer within the same school year, the PSA shall immediately provide a FAPE. The PSA should initiate a request to the previous school for the release of all student records. Contacting the special education office of the previous LEA may be helpful in securing the records. Your ISD special education office can also help if you are not able to obtain a response from the previous school or LEA.

## **What are our responsibilities to conduct Child Find activities?**

The IDEA requires each state to “have in effect policies and procedures to ensure that all children with disabilities residing in the state who are in need of special education and related services are identified, located, and evaluated” (34 CFR § 300.111). These activities are referred to as Child Find. States develop procedures that each LEA must follow to carry out these responsibilities. A PSA is responsible for Child Find for all students enrolled in its school.

## **What should we do if a teacher or parent suspects a student might need special education programs and/or services?**

Parents and teachers must be given clear information about the procedures that will be followed and the rights of a student to be evaluated to determine if they are eligible for special education. Parents and teachers must also be fully aware of other services your school provides (e.g., a student assistance team or multi-tiered system of support). School personnel should be familiar with the federal and state law and regulations regarding procedural safeguards.

Every PSA should have clear procedures in place for attending to the needs of a student who is not progressing or is exhibiting academic, behavioral, or social-emotional issues. Putting such procedures in place should be a part of planning before start-up so that these procedures do not have to be developed in a crisis situation.

## **How much flexibility do we have as a PSA in hiring and contracting special education staff?**

A PSA may hire or contract for any special education staff as long as these staff hold the appropriate certification and meet state and federal requirements for highly qualified staff. Requirements are articulated in the MARSE and the rules governing different professional specialties. For further questions, contact your local ISD for information.

**Note:** Even if a PSA contracts for services, the PSA operator remains responsible for compliance and service delivery.

## **Is there a difference between licensed educators and highly qualified educators?**

Yes. Being licensed or certified is only one part of the requirements in the *Elementary and Secondary Education Act* (ESEA) designed to ensure that teachers of core academic subjects be highly qualified. The IDEA applies this ESEA requirement to special education teachers who teach core subjects.

## **Do we have to hire full-time special educators in our PSA?**

This depends on the needs of your students and staffing identified in each IEP. However, you will have to be creative and flexible in designing staffing loads. A few of the options include hiring consultants on an hourly basis, or contracting for

special educators through a collaborative agreement with the local school district or other schools (private or charter). Be aware of case load and class size requirements in your ISD. This information may be found in your ISD *Plan for the Delivery of Special Education*.

**Are there requirements for physical access that apply when I select the facilities that will house our PSA?**

Yes. A PSA may not deny persons with disabilities, including parents and students, the benefits of programs and activities offered at its schools because of inaccessible facilities. The selection of the facility for your PSA may not result in excluding or limiting enrollment of people with disabilities from any school program or activity.

**We rent our school building. Whose responsibility is it to make our school accessible?**

Responsibility to modify a facility should be articulated in the lease between your school and the owner of the facility. It is very important you seek legal counsel prior to signing any contracts to lease or purchase your facility.

**Are there different legal requirements that apply to a PSA located in existing facilities as compared to new facilities?**

The requirements for a PSA are equal to those for all public schools. For existing facilities, a school's programs and activities, when viewed in their entirety, must be readily accessible to individuals with disabilities. Both Section 504 of the *Rehabilitative Services Act* and *Americans with Disabilities Act* (ADA) Title II regulations permit considerable flexibility in meeting this legal standard. For example, structural changes are not required in existing facilities if nonstructural methods are effective in achieving program accessibility. Section 504 and ADA Title II require that any new facility, or any altered part of a facility, must be readily accessible to, and usable by, individuals with disabilities if construction began in June 1977 or later.

**Where can we obtain information and technical assistance in making our school accessible?**

Your state and local code dictate who is responsible for ensuring that public facilities are accessible. Check with the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes for technical assistance in determining what modifications need to be made and the appropriate approach to accomplish your desired goal.

**Summary and Key Points**

Your activities during the start-up period will provide the foundation for the day-to-day operation of your school. As you prepare for the opening, keep all students in mind including students with disabilities. Every time you, your board, and your staff get ready to make a decision, ask yourselves if this decision will help every potential student. Cultivate your resources so you can draw on their expertise and experiences. Remember there are many sources of information and support

available to you, including other charter and traditional schools, the Michigan Department of Education, your authorizer, your ISD, and the Michigan Association of Public School Academies (MAPSA) at [www.charterschools.org](http://www.charterschools.org), to assist during the development and operation of your PSA.

## IV. Operating a Public School Academy

This section provides an overview of critical issues and activities related to serving students with disabilities that you and your colleagues should address during day-to-day operation of your PSA. These may include curriculum implementation, staff and faculty hiring, student enrollment, fiscal issues, and school accessibility. Ideally, you considered each of these issues during your pre-authorization and planning for startup phases. If not, don't despair, but do analyze your situation as soon as possible. You still have the opportunity to build on what you have in place so that your school can support all students including those with disabilities.

### **What special education services must a PSA provide?**

In Michigan, a PSA must either operate or contract out for special education programs and services within the context of their ISD special education plan. All services must be provided in accordance with the student's IEP.

### **A student with a significant disability has enrolled in our school. No one on our faculty has experience in this area. What should we do?**

The first step is for your PSA staff to review the student's special education records, especially the IEP, and analyze your existing capacity to deliver the instruction and programs and related services as described. If a student moves in with an existing IEP, it may also be appropriate to contact your ISD for assistance in making programming decisions or recommendations for service delivery.

### **May we limit the participation of students with disabilities to certain aspects of our school's program?**

No. Schools cannot limit participation. Only an IEP can determine that a student should be limited in her or his participation in activities according to individual need. Consistent with civil rights laws, students with disabilities must be provided the opportunity to participate in the same activities offered to students without disabilities. This includes an opportunity to participate in a range of nonacademic or extracurricular programs and activities offered at your PSA.

### **We plan to develop Individual Learning Plans for all of our students. Do we still have to develop an IEP for each student with a disability?**

Yes. All students receiving special education services must have an IEP that is developed by an IEP team following the procedural requirements of the IDEA and the MARSE. The IDEA and the MARSE are available online at MI-SER accessible through [www.michigan.gov/ose-eis](http://www.michigan.gov/ose-eis). The IEP may complement the plan your school will develop for all students. However, the IEP will be the guiding document for all special education programs services provided to a student who has been found to be eligible for special education.

### **Are there special strategies we might use to attract and retain our personnel who work with students with disabilities?**

In many parts of the country, demand for educators (particularly special educators) exceeds the supply. While there is no special fix, several strategies have proved effective in reducing turnover. These include creating a mentor system for new special educators, implementing a peer support program, and implementing an open-door discussion practice. Increasingly, research shows that the primary reasons special educators leave their positions are paperwork responsibilities, feelings of isolation from colleagues, high caseloads, and multiple responsibilities. Specific upfront discussions with special educators about their individual roles in fulfilling the school's mission will help them to understand your school and their ability to help you meet your goals. It is extremely important that you are in frequent contact with your special educators to gauge satisfaction and frustration and explore strategies to minimize areas of difficulties.

### **What types of special education professional development should we offer our staff?**

A PSA needs to provide professional development opportunities to a variety of individuals according to student and staff needs. Clearly, your instructional staff (including paraprofessionals) need to have ongoing access to training specifically focused on linking instruction, curriculum, and the school's mission to the individual needs of students. Successful practices in personnel retention also stress the importance of involving the staff members in the planning of their own professional development programs. A variety of professional development opportunities are available to schools through the local ISD and professional organizations.

### **What type of professional development would benefit our Board members, parents, and other volunteers?**

Your PSA Board members, parents, and other volunteers should be appropriately included in professional development opportunities. They will benefit from focused, ongoing training in the PSA's responsibilities for students with disabilities as well as educational management issues. Given the strong PSA emphasis on parental involvement, it is important to reach out to parents and family members of students with disabilities. Ensure they are part of the activities that involve all parents and meet their needs for information. Equally important, you, the operator, should take time to participate in ongoing professional development.

A PSA can tap into a variety of networks to learn more about special education in general and issues related to special education in a PSA specifically. Following is a partial list of resources that will be useful to you during the planning and operation of your PSA.

- **Local Educational Agencies (LEA):** An LEA generally offers district schools technical assistance in the form of documents and training. Many districts maintain websites with abundant resources related to special education.

- **Intermediate School Districts (ISD) and Educational Service Agencies (ESA):** The ISD role is to coordinate, develop, establish, and continually evaluate a Plan for the Delivery of Special Education Programs and Services Plan for its constituent local school districts and public school academies. The Plan is submitted to the Office of Special Education (OSE) and approved by Michigan's State Superintendent. For details, see the MI-SER at [www.michigan.gov/ose-eis](http://www.michigan.gov/ose-eis).
- **Michigan Department of Education (MDE):** The MDE website is a rich source of information regarding a variety of educational topics. The MDE website for the entire department is at [www.michigan.gov/mde](http://www.michigan.gov/mde). The Office of Special Education (OSE) website is at [www.michigan.gov/ose-eis](http://www.michigan.gov/ose-eis). The Office of Education Improvement and Innovation (OEII) is at [www.michigan.gov/oeii](http://www.michigan.gov/oeii).
- **U.S. Department of Education (ED):** Several offices in the ED maintain websites that may be helpful to PSA applicants. The Office of Special Education Programs (OSEP) maintains a Technical Assistance and Dissemination web page that provides links to a variety of resources related to special education.  
[www.ed.gov/about/offices/list/osers/osep/index.html](http://www.ed.gov/about/offices/list/osers/osep/index.html)
- **Center for Educational Networking (CEN):** CEN supports the statewide communication and dissemination efforts of the OSE and other initiatives supporting the work of the OSE. CEN is a central resource for print and digital communication products and services. CEN is a Mandated Activities Project (MAP) funded by the IDEA through the OSE.  
[www.cenmi.org](http://www.cenmi.org)
- **Technical Assistance and Dissemination Network (TA&D Network):** The TA&D Network is funded by the U.S. Office of Special Education Programs (OSEP). These projects provide information and technical assistance to states, schools, educational professionals, and families on topics such as autism, deafness, disproportional representation, dispute resolution, learning disabilities, parenting students with special needs, positive behavior support, and transition.  
[www.tadnet.org](http://www.tadnet.org)
- **National Special Education Networks:** The National Charter School Resource Center (Resource Center) serves as a national center to provide on-demand resources, information, and technical assistance to support successful planning, authorizing, implementation, and sustainability of high-quality charter schools; to share evaluations on the effects of charter schools; and to disseminate information about successful practices in charter schools.  
[www.charterschoolcenter.org](http://www.charterschoolcenter.org)
- **Michigan Association of Public School Academies (MAPSA):** The MAPSA is a support organization that provides a variety of services for a PSA.  
[www.charterschools.org](http://www.charterschools.org)

- **Michigan Association of Administrators of Special Education (MAASE):**  
The MAASE is the membership organization for those who are administrators of special education in the state. It is an official subdivision in Michigan Council of Administrators of Special Education (CASE) and a component of the Council for Exceptional Children (CEC), a national organization of special education professionals. [www.maase.org](http://www.maase.org).

### **What should we do when our special education program costs more than the funding we receive from our state and the federal government?**

Lack of funds is never a legal reason for denying services to a student who is eligible for special education. The Revised School Code, Act 451 of 1976 addresses the issue of "...an emergency due to extreme financial conditions" at MCL 380.1702 (the MCL is available at the MI-SER).

### **We don't provide transportation to students. Must we provide it for students in special education?**

If your school provides transportation to and from school or financial support (e.g., tokens) for non-disabled students for that kind of transportation, then you need to do the same for students with disabilities. If you do not provide this support in general, then you typically do not need to provide it to students with disabilities. However, if an IEP team identifies specialized transportation as a related service in a student's IEP, then your school will need to arrange for transportation services. As an IEP team considers a student's need for transportation, it is critical that team members understand the difference between a student's need for transportation to get to school (common for all students) and a student's need as a result of a disability (which results in the need for a related service). If your PSA is responsible to provide this related service, you may contract for it or arrange for the family to transport the student to and from school or the location of the special education services and provide reimbursement. This applies also to field trips and other school activities for which the PSA provides transportation to nondisabled students.

### **What special education forms and reports do we have to complete?**

It is very important that you, as the charter operator, understand the nature of your school's responsibilities and ensure your entire PSA staff has a clear understanding of the reporting responsibilities to avoid violations that might make the school vulnerable to noncompliance charges. Deciding who in your PSA will be responsible for what paperwork (followed by training to do this) will help to ensure completion of all requirements by competent, qualified individuals. Schools may contact their local ISD for technical assistance in this area. (More information is available in Section V: Accountability, Data Collection, and Renewal.)

### **Who is responsible for developing a student's IEP?**

A PSA has the responsibility for developing the IEP for each eligible student with a disability. It may be beneficial to utilize existing forms from your ISD.

## **Who should be involved in the development of a student's IEP?**

The IDEA requires that an IEP be developed by a team whose members include a parent of the student with a disability, one general education teacher of the student, one special education teacher of the student, an administrative representative of the LEA, individuals who can interpret the instructional implications of evaluation results, other individuals with knowledge and expertise regarding the student, and (as appropriate) the student. The law allows for participation in a meeting by conference call or other electronic means.

## **What does the IEP need to include?**

According to the IDEA and the MARSE, an IEP for each student with a disability must include:

- A statement of the student's present levels of academic achievement and functional performance, including how the student's disability affects the student's involvement and progress in the general curriculum.
- A statement of measurable annual goals and measureable objectives.
- A statement of the special education and related services and supplementary aids and services to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided for the student.
- An explanation of the extent, if any, to which the student will not participate with non-disabled students in the general education setting.
- A statement of any individual modifications in the administration of state or district-wide assessments of student achievement that are needed in order for the student to participate in the assessment and, if the IEP team determines that the student will not participate in a particular state or district-wide assessment, a statement of why that assessment is not appropriate for the student and how the student will be assessed.
- The projected date for the beginning of the programs and services and the frequency, location, and duration of those programs services.
- A statement of how the student's progress toward the annual goals will be measured and how the student's parents will be regularly informed of their child's progress toward the annual goals and the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the year.

In addition, for students age 16 and above, there are requirements for addressing transition needs in the IEP process. Transition planning and services may begin at a younger age if appropriate.

The IEP is not a curriculum for the student. Rather, it is the necessary special education and related services that will allow the student to make progress toward IEP goals and have access to and make progress in the general education curriculum.

### **What is our school's responsibility when a student with a disability transfers to another school?**

As with any other student, when a student with a disability transfers to another school, you must ensure timely transfer of all records. At the point that the student is formally no longer enrolled in your PSA, your school no longer has a responsibility to provide services to the student.

### **What options are available when a parent and a school do not agree about special education programs and services?**

It is ideal to resolve disagreements informally at the local district through the use of an informal meeting, facilitated IEP, or mediation. The IDEA contains procedural safeguards and due process rights for students with disabilities and parents. Parents must be provided with prior written notice of these rights at least once a year, when an evaluation is requested, when a state complaint or due process complaint is received, when a student is subject to disciplinary procedures, and upon parent request.

The IDEA and the MARSE have procedures for state complaints. Michigan has a formal complaint system for further information. View and access MDE documents for filing a complaint at [www.michigan.gov/ose-eis](http://www.michigan.gov/ose-eis).

### **Summary and Key Points**

As you move through the day-to-day operation of your school, you will find that often you have to focus on a challenge of the moment. If you have planned carefully to put strategies in place for handling special education issues, they will not reach the crisis stage. Occasionally, you should take the time to revisit your mission and vision and have specific discussions on how all of your students and staff are doing. Remember to consult with resources available in your local school district, OSE, or charter authorizer. Taking time to address the needs of students with disabilities in a proactive and positive manner will have significant payoffs for your students, school, and the community.

## V. Accountability, Data Collection, and Renewal

A PSA is obligated to collect and report the same information that all public schools must report regarding students, personnel, state assessments, and budgets. This includes data that is often used to generate state and federal categorical funds for special education. It is the recommendation of the MDE that PSA Boards be oriented to the data requirements related to special education that you are expected to collect and any required means of collecting and storing such data. A comprehensive (electronic) management information system and consistent, detail-oriented staff are two effective ways to handle this responsibility. A secure electronic data system and a secure filing system to store the paper documents are also critical to ensure security and privacy of confidential and other critical data.

### **What type of special education accountability provisions do we need to consider?**

First and foremost, you need to address your authorizer's requirements. Stay in close contact with your ISD and the MDE to learn of updates and implications for your PSA. At a minimum, you will also need to be able to document specific outcomes of students with disabilities, fiscal practices related to special education, timelines related to development and implementation of special education services, qualifications of faculty and staff, and resolution of parent complaints.

### **What types of data should we collect so we are able to complete required reports?**

Charter schools are required to submit the same data and reports as traditional school districts. Examples include student enrollment and exit data, program accounting, student performance data, and financial reporting. At a minimum, you will need to be able to report data on all of your students so the data can be aggregated into the subgroups outlined in the ESEA, one of which is students with disabilities.

Even if your PSA has not begun enrolling students with disabilities, it is important to include provisions for special education in the development of your data collection and management information systems. This will strengthen your infrastructure and prepare you to provide effective special education services that meet the mandates of the laws.

### **Is there added accountability specifically for special education?**

Yes. Operators must understand that a PSA, as any LEA, has the same level of formal accountability related to special education. The U.S. Department of Education carries out an extensive monitoring of a State Education Agency (SEA), and then the SEA must develop and carry out a formal monitoring process for each LEA. Your PSA's involvement in the process of monitoring is dictated by your legal status as an LEA or part of an LEA. For further information about special education monitoring in Michigan, see [www.michigan.gov/ose-eis](http://www.michigan.gov/ose-eis).

### **What resources are available to prepare my PSA to be successful in special education monitoring?**

Technical assistance in this area may be obtained from your ISD, the MDE, another LEA, or another PSA. One strategy could include the use of monitoring mentors, where an experienced special educator can assist your PSA to prepare for monitoring. A key component of special education monitoring in Michigan is the Continuous Improvement and Monitoring System (CIMS) electronic *Workbook*, which will be available for you when your school has generated enough special education data. Additional information on monitoring for compliance in special education can be found at <http://cims.cenmi.org>.

### **How do students with disabilities participate in the ESEA accountability system?**

The ESEA makes a point of including students with disabilities and special education programs in school assessment and accountability systems. Students receiving special education services including those with the most significant disabilities who participate in an alternate assessment system will be included in the accountability formulas. Not only do they count—they can make a difference in your school's ability to meet criteria for the Michigan school accountability score card. Talk with your colleagues, your authorizer, and your ISD to identify effective strategies in helping students with disabilities to demonstrate progress. There is also a component of special education monitoring that ensures that the state assessment designated on a student's IEP matches the assessment that was actually administered, and whether the accommodations and modifications designated on a student's IEP match those that were actually provided.

### **How will special education be included in the renewal of our school's charter?**

Throughout your renewal process, your authorizer will include an evaluation of your special education practices. These will most likely focus on financial, academic, personnel, facilities, and data systems. Having your special education infrastructure in place and operating smoothly will prepare you well for your renewal activities.

### **Could failure to meet special education requirements be cause for not renewing our charter?**

Yes. Lack of compliance with federal and state laws (including special education) can result in revocation or non-renewal of a charter.

### **How do we know if our authorizer has specific renewal policies and processes that address special education?**

If you're not sure ....ask! Hopefully this is an area you discussed with your authorizer during your planning, start-up, and operational phases. However, if you're not sure, find out what requirements your authorizer will expect you to meet as a condition for renewal. Other PSAs that are authorized by the same entity may also be an invaluable source of information regarding renewal.

It is also important that you stay informed about developments related to your PSA. Frequent review of information on the MDE website concerning PSA issues, at [www.michigan.gov/charters](http://www.michigan.gov/charters), will be invaluable.

### **Summary and Key Points**

Accountability has become a cornerstone of school improvement efforts and, at a minimum, these include: monitoring and compliance, data management, record keeping, procedural compliance, state law compliance, and contract compliance. Depending on your school's legal status and linkage, you will work directly with your ISD, the MDE, or authorizer throughout this phase. At the heart of this is a school's ability to demonstrate student progress, maintain qualified personnel, and document instructional and financial practices. As valued members of your school, students with disabilities and their programs and staff will be involved in each aspect of this phase. Explicitly preparing for their involvement in all aspects of your school will offer the opportunity to minimize challenges and enhance the quality of your accountability plan.

## VI. Non-Renewal, Revocation, and Termination

Hopefully, your school will never be faced with non-renewal, revocation, or termination of your charter. However, it is important to have a plan in place to be activated if your school closes so that you and your board members understand their responsibilities for the students with disabilities who are enrolled in your school at that time.

### **What is the meaning of the terms non-renewal, revocation, and termination as used in this Primer?**

- *Non-renewal* occurs when a PSA seeks renewal and the authorizer does not grant the PSA a new contract. As a result of not having the PSA contract renewed, the PSA loses its authority to operate and exist as a PSA.
- *Revocation* of a PSA involves a proactive decision by an authorizer to remove a PSA's contract and its legal authority to operate as a public school. In general, revocations occur when a PSA does not meet the obligations articulated in the application or subsequent contracts with the authorizer.
- *Termination* may be a voluntary or involuntary end to the PSA contract, according to the terms of the authorizing contract. Termination may be based upon the decision and action of the authorizer, the PSA, or both.

### **If our school ceases to exist, what do we need to consider relative to our students with disabilities?**

Ideally your school will be in a situation to facilitate the transfer of all funds, records (including student and financial), and equipment (instructional and adaptive) for all students, including those with disabilities. Check with your authorizer, ISD, and the MDE to obtain direction and recommendations regarding the wind-up and dissolution requirements for a PSA.

### **What is our legal obligation after our PSA has closed?**

After the school closes, there will be requirements to conduct a final accounting of all funds spent by your school. State law, the charter contract, and the authorizer will determine the specific nature of these activities and the ultimate destination of reports, including special education files. Be sure to be in touch with the appropriate authorities to avoid the possibility of legal ramifications.

### **We don't know where specific students are going. What do we do with their records?**

Specifically, the State School Aid Act of 1979 indicates the following regarding the storage of student records from closed schools:

MCL 388.1014a: Records of grades attained by students at former educational institutions; central depository; availability to public of records and other writings; custody of records; transcripts.

(1) The trustees or officers of a college or other institution of learning, whether incorporated or not, upon going out of existence or ceasing to function as an

educational institution, shall turn over the records of all grades attained by its students to the state board of education. The office of the State Superintendent shall be the central depository for these records.

(2) The records and any other writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(3) The State Superintendent shall have the supervision, care, custody, and control of these records, and shall, when requested, prepare transcripts necessary for a former student. The transcripts shall be certified by the State Superintendent and shall be considered and accepted as evidence for all purposes, the same as the original record.

### **How should we transfer student records?**

Perhaps the most important consideration in records transfer is ensuring the privacy of student information. The *Family Educational Rights and Privacy Act* (FERPA) (20 U.S.C. 1232g) provides guidance on requirements in the transfer of educational records that contain personally identifiable information on your students. For a guide to privacy issues, see <http://nces.ed.gov/pubs2006/2006805.pdf> and for details about the law, see [www.ed.gov/policy/gen/guid/fpco/ferpa/index.html](http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html). (Careful attention to sections pertaining to disclosure of information without the written consent of the parent or eligible student will help alleviate future problems.)

### **How should we dispose of any special equipment that was purchased for our students with disabilities?**

The handling of equipment purchased for a student with a disability will be dependent on what funds were used to purchase the equipment.

If equipment was purchased for one specific student, it should be forwarded to the student's new school. If this information is not known, or if the equipment was purchased for use in a special education program, it should be handled in the same manner as all other school equipment.

Any unit of equipment purchased with IDEA grant funds that aggregate to be worth \$5,000 or more (either opened or any unopened) must be disposed of according to the following standards:

- The PSA should first offer the equipment, at no cost, to another public school or federally funded grant recipient.
- If no public school accepts the offer, then the PSA shall put the equipment out for bid.
- If there are no bidders then the equipment shall be put up for sale.
- If the equipment is still unsold, the PSA may deem the unit as salvage property.

It is important that the PSA retain accurate records of the disposal. If the PSA is closing and there are proceeds after all outstanding bills have been paid, then the funds must be returned to the federal funding source. The MDE is the

federal funding source for IDEA funds.

If the equipment was purchased with state funds, Section 18b of the State School Aid Act (MCL 388.1618b) requires that property acquired with state school aid funds be transferred to the State Treasurer for deposit in the state school aid fund in the event that a PSA is closed. In general, special equipment purchased for a student with a disability should follow the student to his or her next public school placement or alternatively, be returned to the local district that is the student's district of residence.

### **Summary and Key Points**

Activities during this phase may be charged with emotion and politics. Those aside, you and your Board of Directors have legal responsibilities to safeguard the rights of students, the privacy of records, and the security of equipment. Hopefully, you clarified your responsibilities with your authorizer during your initial authorization activities. If not, do so now to ensure that everyone involved has a clear understanding of roles and responsibilities.